

has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, or spice.

(iii) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only ~~it~~ → [electronic cigarette] tobacco ← ~~it~~ .

~~(e)~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~(f)~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~(g)~~ (g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) the sale of tobacco products accounts for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products; ~~or~~

(iv) the retail space features a self-service display for tobacco products~~[-];~~ or

(v) any flavored electronic cigarette product is sold.

~~(h)~~ (h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~(i)~~ (i) "Tobacco product" means:

(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;

(ii) a tobacco product as that term is defined in Section 59-14-102, including:

(A) chewing tobacco; or

(B) any substitute for a tobacco product, including flavoring or additives to tobacco;

and

(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless

(1) As used in this section:

(a) "Cigarette" means the same as that term is defined in Section 59-14-102.

(b) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(c) (i) "Flavored electronic cigarette" means an electronic cigarette that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette.

(ii) "Flavored electronic cigarette" includes an electronic cigarette that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb,

~~mint,~~ ~~menthol,~~ or spice.

menthol, or spice.

(iii) "Flavored electronic cigarette" does not include an electronic cigarette that has a taste or smell of only tobacco.

~~(c)~~ (d) "Retailer" means a person who:

(i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.

~~(d)~~ (e) "Self-service display" means a display of a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a retailer or retailer's employee.

~~(e)~~ (f) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

~~(f)~~ (g) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is defined:

(i) as it relates to a municipality, in Section 10-8-41.6; and

(ii) as it relates to a county, in Section 17-50-333.

(2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an electronic cigarette only in a face-to-face exchange.

government[-]; and

(ii) an ordinance, regulation, or rule relating to the sale, placement of a flavored electronic cigarette.

Section 6. Section **76-10-105.1 (Effective 07/01/20)** is amended to read:

**76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

(1) As used in this section:

(a) "Cigarette" means the same as that term is defined in Section 59-14-102.

(b) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(c) (i) "Flavored electronic cigarette" means an electronic cigarette that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette.

(ii) "Flavored electronic cigarette" includes an electronic cigarette that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb,

~~H~~→ **mint**, ~~←H~~

menthol, or spice.

(iii) "Flavored electronic cigarette" does not include an electronic cigarette that has a taste or smell of only tobacco.

~~[(e)]~~ (d) "Retailer" means a person who:

(i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.

~~[(d)]~~ (e) "Self-service display" means a display of a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a retailer or retailer's employee.

~~[(e)]~~ (f) "Tobacco" means any product, except a cigarette, made of or containing